DG 06-121

ENERGYNORTH NATURAL GAS, INC. D/B/A
KEYSPAN ENERGY DELIVERY NEW ENGLAND

2006/2007 Winter Cost of Gas

Order Approving the Cost of Gas Rates, Local Distribution
Adjustment Clause Rates and Other Rates

O R D E R   N O.   24,688

October 27, 2006

APPEARANCES: McLane, Graf, Raulerson, and Middleton by Steven V. Camerino, Esq. on behalf of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England; Office of the Consumer Advocate by Michael Holmes, Esq. on behalf of residential utility consumers; and F. Anne Ross, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On September 1, 2006, EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan), a public utility engaged in the business of distributing natural gas in 29 cities and towns in southern and central New Hampshire and the City of Berlin in northern New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission) its Cost of Gas (COG) rate adjustment for the 2006-2007 winter period. KeySpan's filing included the direct testimony and supporting attachments of Ann E. Leary, manager of rates and regulatory affairs, Theodore E. Poe, Jr., energy planning manager, Patricia A. Haederle, manager of the New England manufactured gas plant (MGP) program, and James L. Harrison, principal and senior consultant of Management Applications Consulting, Inc. Accompanying KeySpan's COG filing was a motion for protective order and confidential treatment.

On September 18, 2006, the Commission issued an Order of Notice scheduling a hearing for October 17, 2006. On September 7, 2006, the Office of the Consumer Advocate (OCA) filed a notice of intent to participate in this docket on behalf of residential utility ratepayers consistent with RSA 363:28. There were no other intervenors in this docket.

On October 13, 2006, KeySpan filed a revised 2006-2007 winter COG, including supporting attachments. On October 17, 2006, Keyspan filed a motion for protective order and confidential treatment of KeySpan's response to several Staff data requests. On October 17, 2006, a duly noticed hearing on the merits was held at the Commission. Following the hearing, on October 20, 2006, KeySpan filed revised tariff pages.

On October 19, 2006, KeySpan filed a letter correcting a statement made in closing at the hearing. Also on October 19, 2006, the OCA filed a letter in response to a statement made by KeySpan in its closing statement and addressing an accounting issued raised by KeySpan at the hearing. On October 25, 2006, KeySpan filed a letter in response to OCA's position on the accounting issue in its October 19, 2006 letter.

II. POSITIONS OF THE PARTIES AND STAFF

A. KeySpan

KeySpan witnesses Leary and Poe testified to: (1) calculation of the firm sales COG rates and impacts on customer bills, (2) supply reliability and price stability, (3) firm transportation COG rate, (4) transportation supplier balancing charge, peaking service demand charge and capacity allocators, and (5) local distribution adjustment clause (LDAC) charge.

KeySpan witness Haederle testified regarding the status of site investigation and remediation efforts at the various MGP sites in New Hampshire and KeySpan's efforts to seek reimbursement for MGP-related liabilities from third parties in order to reduce the costs submitted for recovery from KeySpan's customers. The costs associated with these efforts and the amounts recovered from third parties are detailed in testimony and supporting schedules and other data supplied to the Staff by Ms. Leary.

KeySpan witness Harrison testified on the cost-of-service study performed to update 2005 indirect gas costs and on which the proposed changes to indirect gas costs contained in this filing are based.

1. Calculation and Impact of the Firm Sales COG Rates

The proposed revised 2006-2007 winter COG average residential firm sales COG rate of $1.1558 per therm is comprised of anticipated direct gas costs, indirect gas costs and various adjustments. Unadjusted anticipated direct gas costs total $107,505,132 and adjustments collectively comprise a reduction of $1,904,507. Anticipated indirect gas costs total $6,273,144 consisting of working capital, bad debt, production and storage capacity, and overhead charges. The gas costs to be recovered over the 2006-2007 winter period (anticipated direct and indirect costs and adjustments) total $111,873,769 and are divided by projected winter period sales of 98,788,232 therms to arrive at the average COG rate of $1.1558 per therm.

Using the methodology approved in Commission Order No. 24,618 (April 28, 2006), KeySpan applied updated load factor ratios to the unit demand cost component, multiplied by the correction factor, and added the remaining average COG unit rate to determine the proposed commercial and industrial (C&I) low winter use COG rate of $1.1538 per therm and the C&I high winter use COG rate of $1.1561 per therm.

KeySpan testified that the average COG in this filing, $1.1558 per therm, is $0.1193 per therm, or 11% lower than the initial average COG approved by the Commission in DG 05-151 last October 24, 2005 in Order No. 24,535, primarily due to a decrease in the projected total direct cost of gas.

KeySpan’s proposed revised 2006-2007 winter COG residential rate of $1.1558 per therm is a decrease of $0.1193 per therm from the initial 2005-2006 average COG of $1,2751/therm, but is an increase of $0.0216 per therm from the 2005-2006 winter weighted firm sales COG rate of $1.1342 per therm. The difference between last winter’s initial COG and the actual weighted average is due to the steep decline in the market rates for gas starting mid-winter, reflected in a downward adjustment in the COG rate by KeySpan starting in February, 2006. The combined estimated impact of the proposed firm sales COG rate and LDAC rate is a $31, or 2.2 percent, increase in the typical residential heating customer’s winter gas costs, compared to last winter, assuming no subsequent adjustment to the initial rate.

2. Supply Reliability and Price Stability

KeySpan testified that it holds a diverse gas supply portfolio, with winter supplies coming in roughly equal volumes from three distinct supply sources – Canada, the Gulf of Mexico and underground natural gas stored primarily in Pennsylvania and New York. In addition to those supplies, KeySpan has secured liquefied natural gas (LNG) and propane for use in its peaking facilities, as well as peaking contracts with Distrigas of Massachusetts, LLC and AES Londonderry, LLC for additional supplies to be delivered directly to KeySpan’s city gates.

With regard to reliability of Canadian supply, Mr. Poe testified that he believed the boundary gas supply has been imported from Canada by the Company since the late 1980s and that to his knowledge this supply has never been interrupted due to changes in Canadian government policy. KeySpan noted that discovery is ongoing in Docket No. DG 06-105, related to the Company’s Integrated Resource Plan, and that this issue could be fully addressed in that proceeding.

KeySpan testified that along with pre-purchased supplies in storage, under its hedging plan a substantial volume of index-priced supplies have been hedged for this winter, effectively locking in prices for approximately 72 percent of its winter supply. As a result of KeySpan's diverse supply portfolio and hedging, only 28 percent of its forecasted winter supply is subject to the extremely volatile natural gas commodity market, thereby ensuring a greater level of price stability than would otherwise be the case.

3. Firm Transportation COG Rate

The proposed firm transportation COG rate of $0.0008 per therm is a decrease of $0.0022 from last winter's rate of $0.0030 per therm. This decrease is largely the result of a $38,986 over-recovery from last winter.

4. Revised Transportation Charges and Allocators

In *Gas Restructuring-Unbundling and Competition in the Natural Gas Industry,* 86 NH PUC 131 (2001), the Commission approved a supplier balancing charge and peaking service demand charge to be updated once a year, commencing with the November billing month. Supplier balancing charges are charges related to daily imbalances of each supplier's resource pool at KeySpan delivery points (city gates). The suppliers pay Keyspan supplier balancing charges as compensation to KeySpan for costs incurred by KeySpan to stay within daily operational balancing tolerances on the Tennessee Gas Pipeline. Peaking service demand charges reflect KeySpan's peaking resources and associated costs. KeySpan proposes to decrease the supplier balancing charge from $0.16 per MMBtu to $0.13 per MMBtu of daily imbalance volumes and decrease the peaking service demand charge from $18.17 per MMBtu of peak maximum daily quantity (MDQ) to $10.66 per MMBtu of peak MDQ. The changes are based on an update of volumes and costs used in calculating the charges. Finally, the capacity allocator percentages, which are used to allocate pipeline, storage and local peaking capacity to a customer's supplier under the mandatory capacity assignment required by New Hampshire for firm transportation service, have been updated to reflect KeySpan's supply portfolio for the upcoming year.

5. LDAC Rates

The LDAC charges that KeySpan proposes to bill from November 1, 2006, through October 31, 2007, include charges for demand-side management (DSM) lost revenues, energy efficiency programs, certain environmental remediation costs for the clean up of MGP sites in New Hampshire and lost revenues and program costs associated with the Residential Low Income Assistance Program (RLIAP).

KeySpan proposes a $0.0006 per therm DSM charge for residential heating customers to recover lost revenues that resulted from discontinued DSM programs. KeySpan proposes a $0.0000 per therm DSM charge for its non-heating residential and C&I customers.[1]

In *Energy-Efficiency Programs for Gas Utilities*, 87 NH PUC 892 (2002), the Commission approved the implementation of energy efficiency programs for New Hampshire's natural gas utilities. Order No. 24,636 (June 8, 2006) authorized the continuation of energy efficiency programs for an additional three years. The LDAC rate includes a proposed energy efficiency surcharge of $0.0173 per therm for residential customers and $0.0127 per therm for C&I customers, effective November 1, 2006 through October 31, 2007.

The proposed energy efficiency and demand side management surcharges, referred to as the Conservation Charge, represent an increase of $0.0094 per therm for residential non-heating

[1] The calculation for the C&I customers rounds to zero at the fourth decimal.

customers, and $0.0095 per therm for residential heating customers. There is a decrease of $0.0010 per therm for C&I customers compared to energy efficiency rates currently in effect.

In *EnergyNorth Natural Gas, Inc*., 84 NH PUC 489 (1999), the Commission approved a recovery mechanism for environmental remediation costs, including legal costs incurred pursuing third party recoveries (i.e., plant operators and insurance carriers), associated with former manufactured gas plant (MGP) sites. These costs are filed during KeySpan's winter COG proceeding for Commission review and are recovered over a seven-year period. Third party recoveries are credited against unamortized balances authorized for recovery and used to reduce the amortization period. Additional environmental remediation costs of $3,155,760 have been incurred over the past year and proposed for recovery. The proposed environmental surcharge for the upcoming year is $0.0152 per therm. The net impact on the total environmental surcharge is an increase of $0.0029 per therm from the current surcharge of $0.0123 per therm.

In *New Hampshire Natural Gas Utilities*, Order No. 24,508 (September 1, 2006), the Commission approved implementation of a pilot Residential Low Income Assistance Program (RLIAP) for New Hampshire's natural gas utilities. Commission Order No. 24,669 (September 22, 2006) approved the continuation the RLIAP. The LDAC rate includes a proposed RLIAP surcharge of $0.0063 per therm for all firm sales and transportation customers, effective November 1, 2006 through October 31, 2007.

6. Liberty Hill Environmental Remediation and Expense Recovery

Ms. Haederle testified that there was an explosion that leveled the Laconia MGP in 1952 and at that point the plant ceased to operate and was dismantled. Gas Service, Inc., an EnergyNorth Natural Gas, Inc. predecessor, hired a contractor to dismantle the plant, who in turn hired a trucking company to remove the materials from the gas holder and truck it to a gravel pit located on Liberty Hill Road in Gilford for disposal with landowner permission.

The material disposed of was generated during the operation of the Laconia MGP. The collection of that material in the holder during the operation of the facility was typical of how such facilities operated and was consistent with the standards of operation at the time. Furthermore, Ms. Haederle testified that the material was disposed in accordance with the practices of that time.

Under today's environmental laws, that material must be cleaned up and KeySpan incurred approximately $2.3 million in environmental remediation costs related to the Liberty Hill site. KeySpan seeks recovery of those costs pursuant to the recovery mechanism for environmental remediation costs set forth in, *EnergyNorth Natural Gas, Inc*., 84 NH PUC 489 (1999), as the Liberty Hill remediation costs are "Costs related to environmental investigation and remediation arising from or related to the MGP sites." *Id*. 490. KeySpan noted that the material remediated at Liberty Hill was generated by one of the six MGP sites cited in that order. It is KeySpan's contention that the order resolved the issue as to whether the contamination generated at those sites and the disposal of that material was prudent and, therefore, the issue is foreclosed from further inquiry.

KeySpan suggested that if the Commission's order in this proceeding were not sufficient for the KeySpan's auditors to conclude that it is probable that the investigation and remediation expenses for Liberty Hill will be allowable costs for ratemaking purposes, KeySpan may be required to write off those costs in short order.

7. Updated Indirect Gas Costs

KeySpan testified that in response to a recommendation made in the report performed by the Liberty Consulting Group and filed by Staff in Docket Nos. DG 04-133 and DG 04-175, titled "Final Report – Review of Supply Planning and Asset Management Agreements of EnergyNorth Natural Gas, Inc." (Liberty Report), KeySpan updated its indirect gas costs using a 2005 test year based on a cost of service study performed by James Harrison of Management Applications Consulting, Inc.

The Liberty Report questioned whether KeySpan's current gas acquisitions costs contained in its indirect costs were reflective of current costs, as KeySpan had hired an asset manager to perform some of the gas supply functions recovered through indirect gas costs. KeySpan testified that the current rates are out of date, as the approved costs were taken from a functional cost study performed for the 12 months ended September 30, 1999.

KeySpan stated that the cost of service study performed to update the indirect gas costs addressed many areas and is comprised of many categories and subparts and does not amount to single issue ratemaking.

8. Motions for Confidential Treatment

KeySpan requests that the Commission determined that certain information provided to the Commission be treated as confidential. In the motion for confidential treatment filed on September 1, 2006, KeySpan seeks such treatment for the following information, which, according to KeySpan, identifies specific suppliers and commodity and demand charges or such information that can be determined from the data provided: Schedule 1, Summary of Supply and Demand Forecast; Schedule 2, Contracts Ranked on a per Unit Cost Basis; Schedule 4, Summary of Adjustments to Gas Costs; Schedule 5A, Demand Costs; Schedule 5C, Demand Rates;

Schedule 6, Supply and Commodity Costs, Volumes and Rates; Schedule 7, Hedged Contracts; Schedule 16, Storage Inventory, Underground, LPG and LNG including Calculation of Money Pool Interest Costs Associated with Natural Gas; and Tariff Page 153, Attachment B in worksheets showing peaking demand rate calculation. In its October 13, 2006 revised filing, KeySpan stated that the confidential schedules provided were understood to be covered by this motion.

KeySpan asserts that this information constitutes trade secrets of KeySpan and should be protected as confidential commercial information. KeySpan states that it does not disclose this information to anyone outside of its corporate affiliates and their representatives. KeySpan further asserts that release of this information is likely to result in competitive disadvantage for KeySpan in the form of less advantageous or more expensive gas supply contracts and that gas suppliers possessing the confidential information described above would be aware of KeySpan's expectations regarding gas supply costs and other contract terms, and would therefore be unlikely to propose to supply such goods and services on terms significantly more advantageous to KeySpan.

In the motion for confidential treatment filed on October 14, 2006, KeySpan directs the Commission’s attention to responses to Staff Data Requests 1-3, 1-4, 1-6, 1-13, 1-17 and 1-18, all of which are said to contain pricing information that KeySpan normally maintains in confidence. KeySpan submits that the pricing information included in the responses constitutes trade secrets of KeySpan and should be protected as confidential commercial information. KeySpan reports that it does not disclose this information to anyone outside of its corporate affiliates and their representatives, and that release of the information would likely result in a competitive disadvantage for KeySpan.

B. OCA

The OCA stated that political parties of all persuasions (tr. p. 16-17, lines 22-1) are suggesting that the United States implement an energy policy that relies less on foreign oil. It expressed concern that a foreign government or administrative agency could decide that energy supplies should not leave the country and those supplies would then be curtailed through a force majeure clause in the supply contract. The OCA noted that KeySpan purchases a fair amount of its gas supply from Canada and suggested that KeySpan may be more focused on the financial risk to consumers than the governmental risk associated with purchasing foreign gas supplies.

The OCA asked that the Commission take administrative notice of the history of a Hydro-Quebec facility built to import excess capacity of electricity from Canada, which it characterized as a "white elephant," and suggested that KeySpan be required to factor in the potential risks associated with buying energy abroad.

The OCA asked the Commission to defer the question of whether KeySpan should recover the $2.3 million Liberty Hill environmental remediation costs proposed by the Company for recovery here. OCA argued that the Liberty Hill remediation costs are not covered under the settlement approved in *EnergyNorth Natural Gas, Inc*., 84 NH PUC 489 (1999), which the OCA contends only addresses costs incurred on the MGP site and surrounding area. The OCA contends that Liberty Hill is not surrounding area and, therefore, whether the plant was prudently operated and materials properly disposed at that time must be dealt with before the issue of recovery can be addressed.

The OCA argued that KeySpan would not have to write off the Liberty Hill environmental remediation expense at this time if the Commission deferred a decision on the issue until the Commission, Staff and parties had sufficient opportunity to review the costs and the reasons for them. The OCA asserted that KeySpan could avoid a write off by booking the costs to a suspense account.

The OCA opposed the proposed changes to indirect gas costs, taking the position that the proposal amounts to a single issue rate case and arguing that the evidence in this proceeding provides no rationale for an increase at this time.

According to the OCA, the indirect gas costs were developed in a KeySpan revenue-neutral rate redesign case, which assigned all costs and revenues to either the delivery or supply function, and there were no additional costs to ratepayers. The OCA contends that, in updating the proposed indirect gas costs, only the supply function is being addressed and rates are being increased, while the other segment, for which costs may have gone down, is being ignored.

The OCA said the Commission does not favor single issue rate cases, citing *Statewide Low Income Electric Assistance Program*, 87 NH PUC 349 (2002). The OCA stated that the Commission has 12 months to decide a rate case, which means ratepayers have twelve months under the law to review the issues. According to the OCA, it is unfair to address the issues related to indirect gas costs in the very short time frame allowed through the COG mechanism. There are many questions related to proposed changes in the indirect gas costs, as evidenced by Staff request to do further discovery on two of the issues, in the view of the OCA. In addition to the issues raised by Staff, the OCA questioned the way customer advances and partial payments are recorded, as those revenues are applied to the delivery function and not assigned on a pro rata basis to both delivery and supply as is the bad debt expense. In the opinion of the OCA, these issues need further review.

C. Staff

Utility Analyst Robert Wyatt and Stephen Frink, assistant director of the Gas & Water Division, testified on behalf of Staff. They noted that Staff had reviewed the cost of gas forecast for the upcoming winter period. Staff expressed support for KeySpan's supply portfolio changes, stating that the changes provide greater supply diversity for improved reliability and pricing opportunities.

Staff testified that it had concerns regarding two components of the indirect gas costs, the working capital allowance and bad debt expense.

KeySpan proposed an increase in the bad debt percentage from approximately 1 to 3 percent. This increase was the subject of several discovery questions. Staff cited the KeySpan responses to technical conference data requests 1-1, 1-2 and 1-3 as a basis for opposing the proposed increase in the bad debt expense percentage and indicated that further discovery on the topic is warranted.

Response 1-1 revealed that ENGI's bad debt percentage in 2004 was 2.12 percent and the average percentage over the past three years is 2.57 percent. Response 1-2 revealed that collection policies have changed since 1999 but did not specify what the policies were in the test year. Staff recommended a review of policy changes to determine if recent changes have been made, or could be made, that would reduce bad debt from that experienced in 2005.

Response 1-3 revealed that the bad debt percentage of other natural gas utilities in New Hampshire and Massachusetts were lower for nine of the ten utilities cited. New Hampshire's other natural gas utility, Northern Utilities, had a 2005 bad debt percentage of 0.85 percent. Staff recommended that review of bad debt experience of other utilities be expanded to include electric utilities and a determination made as to what factors give rise to any differences.

Staff recommended allowing KeySpan to implement the EnergyNorth three-year average bad debt percentage of 2.57 percent, pending further review. Staff proposed to work with the OCA and KeySpan to determine what an appropriate bad debt percentage should be going forward and to file its findings and a recommendation upon completion of the review.

If approved, Staff's recommendation would decrease the indirect gas costs by $438,108 and lower the proposed COG rates by $0.0045 per therm.

Staff also expressed concern regarding the possible double-recovery of interest through the Company's working capital allowance and the monthly interest earned on under-recoveries. Staff noted that this problem is not unique to KeySpan or to New Hampshire, noting that the state's other natural gas utility has the same COG mechanism and New Hampshire's electric utilities have a similar mechanism, as do the Maine and Massachusetts gas utilities.

Staff explained that regulatory agencies generally recognize that the level of investment required to operate a utility is not limited to the net plant in service and that there are other items that require investor-supplied capital. These non-plant items are generally referred to as working capital. There are typically two components that comprise working capital: items booked to capital accounts, such as inventories and prepayments; and the cash needed to support expense outlays due to timing differences between receipt of revenues from customers and payment of vendor bills. The latter component can be further subdivided into timing differences related to gas supply and non-gas supply issues.

Each New Hampshire gas utility is allowed a supply-related working capital allowance in its COG mechanism computed by performing a "lead-lag" study to determine the number of days between the provision of retail service and the receipt of revenue (lag days) and the number of days between the receipt of gas supply and the payment of gas supply bills (lead days). The net lag or lead in each month is then multiplied by the monthly gas supply cost to calculate the monthly supply-related working capital requirement. This requirement is then multiplied by an appropriate carrying charge rate to determine the working capital allowance to be recovered through the COG.

The COG mechanism also includes a reconciliation mechanism that compares on a monthly basis gas supply costs and revenues. The mechanism requires interest be applied to the average monthly imbalance (over- or under-recovery) at the prime interest rate. Gas supply costs are typically booked in the month in which the gas is consumed. Revenues can be booked in several ways. One way is to book revenues associated with, for example, May consumption in June if the customers who consumed that gas had their meters read in June. Another way is to book all revenues associated with May consumption to the month of May regardless of when meters were actually read. This is referred to as accrual accounting. Of concern in this proceeding is the potential mismatch of monthly costs and revenues due to the use of the first revenue accounting approach described above, which KeySpan uses. The mismatch of monthly costs and revenues carries an associated recovery of interest expense. The issue is whether such interest recovery amounts to a double recovery of interest costs, once through the reconciliation mechanism and a second time through the cash working capital allowance.

Staff stated that it would work with the OCA and Company to determine the amount of any double recovery of interest and how to resolve the issue. Staff will then file a report of its findings and recommendations with the Commission. Staff indicated that it may in the future recommend a disallowance related to any double recovery of interest costs in the 2005-2006 winter period based on the outcome of discussions among the Staff, OCA and KeySpan.

III. COMMISSION ANALYSIS

A. Cost of Gas Rates

Based upon a review of the record in this docket, we find that KeySpan's proposed COG rates, as revised in its updated filing on October 20, 2006, will result in just and reasonable rates pursuant to RSA 378:7. By approving these rates we approve the 2006-2007 direct and indirect gas costs proposed in the updated filing as well as KeySpan's proposed 2006-2007 firm transportation winter COG rate, LDAC rate components (including conservation charges, environmental cost recovery surcharge, energy efficiency surcharges and residential low income assistance program surcharge), transportation supplier balancing rate, transportation peaking service demand rate and transportation capacity allocators.

We approve KeySpan's COG rates based upon the record developed in the proceeding to date. We note that several issues raised by the parties in this docket merit further inquiry. Given the timing of KeySpan's COG filing and the need to have rates in place by November 1, 2006, we approve KeySpan's proposed rates and reserve several issues for future consideration. Since the COG rates are reconciled year over year, any adjustments needed as a result of further inquiry into the issues discussed below can be made in KeySpan's next winter COG proceeding. Because we have reserved some issues for further consideration, we cannot approve the reconciliation of the 2005-2006 COG until the reserved issues are resolved.

B. Interest on the Monthly Reconciliation Process and on Cash Working Capital

We understand that Staff, the OCA and KeySpan intend to discuss further KeySpan's process of charging interest costs through its COG mechanism, once through the reconciliation mechanism and a second time through the cash working capital allowance. The potential for double charging interest on gas supply costs is clear and any such overcharges must be eliminated. Accordingly, we direct the parties at the conclusion of their discussions to file a detailed report that explains any deficiencies with the existing methodology as well as a proposal concerning resolution of this issue. We reserve any decision on the appropriateness of KeySpan’s current COG interest charges until receipt and consideration of that proposal. Further, we will consider any recommendations by the Staff, OCA or KeySpan regarding adjustments to the 2005-2006 interest costs that may be filed with the Commission as a result of this ongoing inquiry.

C. Bad Debt Percentage Used for COG

KeySpan’s revised COG filing, made on October 20, 2006, applied a bad debt percentage of 2.57 percent to the forecasted seasonal gas costs and included that cost in the indirect gas costs. That percentage increased 1.6 percent over the prior percentage of 0.97 percent. The 2.57 percent was based upon a three-year average bad debt percentage as recommended by Staff. A COG proceeding is an expedited process and does not provide an adequate opportunity to examine changes in KeySpan’s indirect gas costs. As a result, we approve the COG, including the revised bad debt percentage, but we reserve any decision concerning KeySpan’s efforts to collect unpaid amounts, or an appropriate bad debt percentage, until the Staff, OCA and KeySpan have explored this issue further. We direct the parties to file a recommendation following additional discovery and discussion on this issue.

While we do not agree that updating indirect gas costs necessarily constitutes single issue ratemaking, we acknowledge that by focusing only on gas supply costs and revenues changes that have occurred on the distribution side may be overlooked. We await the parties’ recommendations on this issue and note that if any party, after further discovery, believes that a full rate case is necessary, that issue can be raised with the Commission as part of the requested recommendation.

D. Environmental Remediation Costs

OCA argued at hearing that the costs for the Liberty Hill site remediation, $2.3 million of which is included in KeySpan's environmental remediation costs in this winter COG, are outside the scope of the 1999 settlement which formed the basis of the environmental remediation recovery mechanism approved in *Energy North Natural Gas, Inc*. 84 NH PUC 489 (1999). The 1999 Settlement identified six MGPs that Energy North Natural Gas or its predecessors operated. Those sites all required environmental clean up and included the former MGP site in Laconia. Based upon the record the Laconia MGP was the site of an explosion and subsequent dismantlement around 1952. Apparently as part of the clean up and removal in 1952, waste from the Laconia MGP was transported to a privately owned gravel pit on Liberty Hill Road in neighboring Gilford.

The operative language in the 1999 Settlement is:

> 1. Prudence of MGP Operations. ENGI and Staff recommend that the Commission should find that the waste products from operation of the MGP sites were stored and disposed of by ENGI and its predecessors in a prudent manner in accordance with the practices of the time, and that the alleged contamination of the MGP sites and surrounding areas is consistent with such operations. OCA takes no position with regard to the foregoing
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> 2. Rate Recovery Mechanism. ENGI, OCA and Staff agree that the prudently incurred environmental investigation and remediation costs related to environment clean-up, as well as litigation and other efforts to recover these costs from third parties, arising from or related to the MGP sites should be recovered through rates as follows:
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> > a. Costs related to environmental investigation and remediation arising from or related to the MGP sites and costs arising from or related to claims against third parties for such investigation and remediation shall be submitted to the Commission annually for review with ENGI's winter cost of gas filing. Upon a

> determination that such costs were prudently incurred, the costs shall be recovered through rates in the same manner as the costs that were the subject of DR 97-130, except as provided in Section 29(e) below. In any such review or proceeding, the issue of the prudence of the historical operation of the MGP sites and the historical storage and disposal of hazardous waste therefrom by ENGI or its predecessors shall not be subject to review.[2]
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> d. The cost recovery mechanism set forth in this Settlement Agreement shall apply to all costs incurred with regard to environmental remediation and investigation related to the MGP sites (including costs related to pursuing claims against third parties), subject to a determination of the actual costs incurred as set forth in section 2(a) above.

In its order approving the 1999 Settlement the Commission reiterated its finding as to the prudence of operation and disposal in earlier periods: "We agree with ENGI and Staff that the waste products from the identified MGP sites were stored and disposed of by ENGI and its corporate predecessors consistent with the practices of the time. At that time those storage disposal actions were considered prudent." *Energy North Gas,* 84 NH PUC at 491. The Commission has consistently declined to examine the prudence of early handling, storage and disposal of hazardous materials at MGP sites. *See, Energy North Natural Gas, Inc*. 83 NH PUC 324 (1998); and *Northern Utilities, Inc.* 83 NH PUC 580 (1998).

The facts presented at hearing established that the Liberty Hill site contained hazardous waste transported from the Laconia MGP site. In the terms of the settlement, these are clearly "waste products from operation of [an] MGP site." The disposal of hazardous materials off-site is not an unforeseen consequence of the operation, dismantling and clean up of the Laconia MGP site back in the 1950's. The costs at issue are clearly "[c]osts related to environmental

[2] It is the parties' intention that the issue of the prudence of clean-up and disposal of hazardous waste from the MGP sites that may occur in the future shall be open to a prudence review in association with any request by ENGI for rate recovery for the costs arising from such clean-up and disposal.

investigation and remediation arising from or related to [an] MGP site" in the language of the settlement. We find that the current Liberty Hill site remediation is within the scope of the 1999 Settlement Agreement and the clear language of the Commission's orders approving the Settlement Agreement. KeySpan may include the 2005-2006 Liberty Hill remediation costs within the LDAC for this COG. We reserve the question of whether the Liberty Hill remediation and third party recovery efforts post 1999 Settlement have been prudent.

E. Confidentiality

On September 1, 2006, KeySpan filed a motion for confidential treatment concerning information contained in its COG filing pertaining to specific suppliers, commodity and demand charges, as well as information from which this data can be extracted. On October 17, 2006, KeySpan filed a second motion for confidential treatment in which it sought to keep information relating to competitive bids, requests for proposals (RFPs) and supply contracts contained in responses to Staff Data Requests 1-2, 1-4, 1-6 and 1-14 as well as Exhibits JEA 9, 12 and 15 to testimony of John E. Allocca, confidential. All of the information for which KeySpan seeks confidential treatment concerns pricing and supplier information which KeySpan contends it does not disclose outside of its corporate affiliates. KeySpan further asserts that release of this information to the public is likely to result in a competitive disadvantage to KeySpan in negotiating future gas supply and capacity contracts.

The Right-to-Know Law provides each citizen with the right to inspect all public records in the possession of the Commission. *See* RSA 91-A:4, I. The statute contains an exemption, invoked here, for "confidential, commercial, or financial information." RSA 91-A:5, IV. Our applicable rule, N.H. Code Admin. Rules Puc 203.08, is designed to facilitate the implementation of the statute as it as been interpreted by the courts. In most cases, a balancing test is used to determine whether confidential treatment should be granted. *See e.g., Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540 (1997).

We note that no parties have objected to the two motions for confidential treatment and that the information for which such treatment is sought is similar to information for which the Commission has granted confidential treatment in the past. In balancing the interests for and against public disclosure of the information for which confidential treatment is sought, we are persuaded on the basis of the record in this docket that the interests of KeySpan and ultimately its ratepayers in non-disclosure outweigh the public's interest in obtaining access to the information. We will therefore grant confidential treatment to the material described in the two motions. Consistent with past practice, the confidential treatment provisions of this order are subject to the on-going rights of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider in light of RSA 91-A, should circumstances so warrant.

Based upon the foregoing, it is hereby

ORDERED, that KeySpan's 2006/2007 winter COG per therm rates for the period November 1, 2006 through April 30, 2007 are APPROVED, effective for service rendered on or after November 1, 2006 as follows:

	Cost of Gas	**Minimum COG**	**Maximum COG**
Residential	$1.1513	$0.9210	$1.3816
C&I, low winter use	$1.1493	$0.9194	$1.3792
C&I, high winter use	$1.1516	$0.9213	$1.3819

FURTHER ORDERED, that KeySpan may, without further Commission action, adjust the COG rates upward or downward monthly based on KeySpan's calculation of the projected over- or under-collection for the period, but the cumulative adjustments shall not exceed 20 percent of the approved unit COG, *i*.e., the minimum and maximum rates as set above; and it is

FURTHER ORDERED, that KeySpan shall provide the Commission with its monthly calculation of the projected over or under calculation, along with the resulting revised COG rates for the subsequent month, not less than five business days prior to the first day of the subsequent month. KeySpan shall include a revised tariff page 84 - Calculation of Firm Sales Cost of Gas Rate and revised rate schedules if KeySpan elects to adjust the COG rates; and it is

FURTHER ORDERED, that the over- or under-collection shall accrue interest at the Monthly Prime Lending Rate as reported by the Federal Reserve Statistical Release of Selected Interest Rates; and it is

FURTHER ORDERED, that KeySpan's proposed 2006/2007 local distribution adjustment clause per therm rates for the period November 1, 2006 through October 31, 2007, are APPROVED effective for service rendered on or after November 1, 2006 as follows:

	Demand Side Management	**Environmental Remediation**	**Energy Efficiency**	**Residential Low Income**	**LDAC**
Residential Heating	$0.0006	$0.0152	$0.0173	$0.0063	0.0394
Residential Non-heating	$0.0000	$0.0152	$0.0173	$0.0063	0.0388
Commercial & Industrial	$0.0000	$0.0152	$0.0127	$0.0063	0.0342

FURTHER ORDERED, that KeySpan's proposed firm transportation winter COG rate of $0.0008 per therm for the period November 1, 2006 through April 30, 2007, is APPROVED; and it is

FURTHER ORDERED, that KeySpan's proposed transportation supplier balancing charge of $0.13 per MMBtu of daily imbalance volumes, is APPROVED; and it is

FURTHER ORDERED, that KeySpan's proposed transportation peaking service demand charge of $10.66 per MMBtu of peak MDQ, is APPROVED; and it is

FURTHER ORDERED, that KeySpan's proposed transportation capacity allocators as filed in Proposed Sixth Revised Page 155, Superseding Fifth Revised Page 155, are APPROVED; and it is

FURTHER ORDERED, that the parties and Staff shall file a report prior to KeySpan's Summer COG filing on the results of their discussions regarding the calculation of over/under-collections and associated interest; and it is

FURTHER ORDERED, that the parties and Staff shall file a report prior to KeySpan's Summer COG filing on the results of their discussions regarding the bad debt percentage applied to gas costs; and it is

FURTHER ORDERED, that KeySpan shall file properly annotated tariff pages in compliance with this Order no later than 15 days from the issuance date of this Order, as required by N.H. Code Admin. Rules Puc 1603; and it is

FURTHER ORDERED, that KeySpan's two motions for confidential treatment are GRANTED, provided that the confidential treatment provisions of this Order will be subject to the on-going rights of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider in light of RSA 91-A, should circumstances so warrant.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of October, 2006.

Thomas B. Getz Chairman	Graham J. Morrison Commissioner	Clifton C. Below Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary